

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Laura Strauss	Team: Squad #6	CCRB Case #: 201908813	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 09/28/2019 4:05 AM	Location of Incident: Intervale Avenue and Westchester Avenue	Precinct: 41	18 Mo. SOL 3/28/2021	EO SOL 11/12/2021	
Date/Time CV Reported Mon, 09/30/2019 7:45 AM	CV Reported At: IAB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 10/08/2019 10:56 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Joel Feliz	24505	962401	041 PCT
2. POF Suneiky Estevez	26730	967056	041 PCT
3. POM Vincent Cuccia	15973	960412	041 PCT
4. POM Hosward Veloz	08154	955633	041 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Vincent Cuccia	Abuse: Police Officer Vincent Cuccia stopped § 87(2)(b)	
B.POM Hosward Veloz	Abuse: Police Officer Hosward Veloz stopped § 87(2)(b)	
C.POM Vincent Cuccia	Abuse: Police Officer Vincent Cuccia failed to explain to § 87(2)(b) the reason for a law enforcement activity.	
D.POM Hosward Veloz	Abuse: Police Officer Hosward Veloz failed to explain to § 87(2)(b) the reason for a law enforcement activity.	
E.POM Vincent Cuccia	Abuse: Police Officer Vincent Cuccia frisked § 87(2)(b)	
F.POM Vincent Cuccia	Abuse: Police Officer Vincent Cuccia searched § 87(2)(b)	
G.POM Joel Feliz	Abuse: Police Officer Joel Feliz frisked § 87(2)(b)	
H.POM Joel Feliz	Abuse: Police Officer Joel Feliz searched § 87(2)(b)	
I.POM Hosward Veloz	Abuse: Police Officer Hosward Veloz searched § 87(2)(b)	
J.POF Suneiky Estevez	Abuse: Police Officer Suneiky Estevez refused to provide her name to § 87(2)(b)	
K.POF Suneiky Estevez	Abuse: Police Officer Suneiky Estevez refused to provide her shield number to § 87(2)(b)	
L.POM Joel Feliz	Abuse: Police Officer Joel Feliz refused to provide his name to § 87(2)(b)	
M.POM Joel Feliz	Abuse: Police Officer Joel Feliz refused to provide his shield number to § 87(2)(b)	
N.POM Joel Feliz	Force: Police Officer Joel Feliz used physical force against § 87(2)(b)	
O.POM Joel Feliz	Abuse: Police Officer Joel Feliz interfered with § 87(2)(b)'s use of a recording device.	
P.POM Vincent Cuccia	Abuse: Police Officer Vincent Cuccia failed to provide § 87(2)(b) with a business card.	

Officer(s)	Allegation	Investigator Recommendation
Q.POM Hosward Veloz	Abuse: Police Officer Hosward Veloz failed to provide § 87(2)(b) with a business card.	
R.POM Joel Feliz	Abuse: Police Officer Joel Feliz failed to provide § 87(2)(b) with a business card.	
§ 87(4-b) § 87(2)(g)		
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### Case Summary

On September 28, 2019, § 87(2)(b) filed this complaint online via 311's website. On September 30, 2019, the Internal Affairs Bureau (IAB) received the complaint from 311. On October 8, 2019, the CCRB received this complaint from IAB, under original log #19- 36152.

On September 28, 2019, at approximately 4:05 a.m., § 87(2)(b) was stopped by PO Vincent Cuccia and PO Hosward Veloz, of the 41<sup>st</sup> Precinct, at Intervale Avenue and Westchester Avenue in the Bronx (**Allegations A-B: Abuse of Authority, § 87(2)(g)**). PO Cuccia and PO Veloz failed to explain to § 87(2)(b) why he was stopped (**Allegations C-D: Abuse of Authority, § 87(2)(g)**). PO Cuccia frisked § 87(2)(b) (**Allegation E: Abuse of Authority, § 87(2)(g)**) and allegedly searched § 87(2)(b)'s pants pocket (**Allegation F: Abuse of Authority, § 87(2)(g)**). Additional officers, PO Joel Feliz and PO Suneiky Estevez, of the 41<sup>st</sup> Precinct, arrived on scene soon after. PO Feliz allegedly frisked and searched § 87(2)(b) (**Allegations G and H: Abuse of Authority, § 87(2)(g)**). PO Veloz allegedly placed his hand into § 87(2)(b)'s pants, over his underwear, and felt around his buttocks area (**Allegation I: Abuse of Authority, § 87(2)(g)**). As the officers walked away, § 87(2)(b) asked for PO Estevez's and PO Feliz's names and shield numbers, which they allegedly did not provide (**Allegations J-M: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) took out his phone to take photographs and walked toward the officers. PO Feliz allegedly pushed § 87(2)(b)'s upper chest and told § 87(2)(b) that he could not take photographs (**Allegation N: Force, § 87(2)(g)**; **Allegation O: Abuse of Authority, § 87(2)(g)**). PO Cuccia, PO Veloz, and PO Feliz did not provide § 87(2)(b) with business cards at the conclusion of the interaction (**Allegations P and Q: Abuse of Authority, § 87(2)(g)**; **Allegation R: Abuse of Authority, § 87(2)(g)**).

§ 87(4-b) § 87(2)(g)

No arrests or summonses resulted from this incident. There was no video footage obtained of this incident.

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Police Officer Vincent Cuccia stopped § 87(2)(b)**

**Allegation (B) Abuse of Authority: Police Officer Hosward Veloz stopped § 87(2)(b)**

It is undisputed that multiple officers approached § 87(2)(b) on suspicion of committing the violation of spitting while he was walking on the sidewalk. § 87(2)(b) was not arrested and did not receive any summonses as a result of this incident.

Although § 87(2)(b) alleged (BR 01) that six officers all stopped him at once, the investigation determined that PO Cuccia and PO Veloz were the first two officers to stop him, with PO Feliz and PO Estevez later joining the interaction as backup. § 87(2)(g)

§ 87(2)(b) further explained that before the officers stopped him, he was walking from his residence to the grocery store to pick up an item for his girlfriend. Aside from walking around the block, § 87(2)(b) did not do anything. He wore a t-shirt and pajama pants and did not carry a bag or backpack. § 87(2)(b) had his cell phone and 30 singles in cash in his front pants pockets. When the police stopped § 87(2)(b) either PO Cuccia or PO Veloz asked if he had anything on him. § 87(2)(b) was not asked his for name or identification, and officers did not explain why he

was stopped. Follow-up calls to § 87(2)(b) to determine if he committed any violations of spitting went unanswered.

PO Cuccia testified (BR 02) that while he and PO Veloz were driving, PO Cuccia observed § 87(2)(b) who was walking, spit on the sidewalk. It was dark outside and there were some streetlights in the area, but it was dim. The officers were approximately two car lengths away from § 87(2)(b). PO Cuccia and PO Veloz exited their vehicle with the intention of issuing § 87(2)(b) a summons for spitting. Neither officer told § 87(2)(b) why he was being stopped. Aside from spitting, there was no other reason that the officers approached § 87(2)(b). At an unknown point, § 87(2)(b) became irate and yelled and cursed at the officers, the substance of which PO Cuccia did not recall. PO Cuccia then decided to use his discretion and not issue a summons to § 87(2)(b). PO Feliz and PO Estevez arrived as he and PO Veloz walked back to their vehicle to leave.

§ 87(2)(g) PO Veloz also observed § 87(2)(b) spit on the ground. PO Veloz and PO Cuccia told § 87(2)(b) that he was being stopped for spitting and asked for his identification, in order to issue him a summons for spitting. After § 87(2)(b) was frisked, § 87(2)(g) PO Veloz and PO Cuccia decided that it was not worthwhile to issue § 87(2)(b) a summons and let him leave.

PO Feliz and PO Estevez testified (BR 04 and 05) that they observed PO Cuccia and PO Veloz interacting with § 87(2)(b) and stopped to make sure that everything was alright. Neither PO Feliz nor PO Estevez observed any actions that § 87(2)(b) took, knew why § 87(2)(b) was stopped, or suspected that § 87(2)(b) committed any crime or violation.

This incident was not documented in any officer's memo book (BR 06-09) and a stop report was not prepared (BR 10). There was no associated Event (BR 11) or any documentation related to this incident. The officers did not activate their body-worn cameras and no video footage was obtained. PO Cuccia and PO Veloz testified in their IAB GO-15 interviews that § 87(2)(b) was stopped solely for spitting (BR 12-13).

§ 87(2)(g)  
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**Allegation (C) Abuse of Authority: Police Officer Vincent Cuccia failed to explain to § 87(2)(b) the reason for a law enforcement activity.**

**Allegation (D) Abuse of Authority: Police Officer Hosward Veloz failed to explain to § 87(2)(b) the reason for a law enforcement activity.**

§ 87(2)(b) testified that aside from walking around the block, he did not do anything. After being stopped by PO Cuccia and PO Veloz, the officers did not explain why he was stopped.

PO Cuccia testified that after stopping § 87(2)(b) for spitting on the ground, either he or PO Veloz said something to § 87(2)(b) when they initially approached him, but PO Cuccia did not recall what was said. Neither PO Cuccia nor PO Veloz told § 87(2)(b) why he was being stopped.

PO Veloz testified that upon observing § 87(2)(b) spit on the ground, he and PO Cuccia exited their vehicle and approached § 87(2)(b). PO Veloz and PO Cuccia identified themselves, told § 87(2)(b) that he was being stopped for spitting, and asked for his identification.

During a law enforcement activity, which includes noncustodial questioning of individuals suspected of criminal activity and pedestrian stops where an officer has an individualized, reasonable suspicion that the person stopped has committed, is committing, or is about to commit a crime, officers must provide to such a person an explanation or reason for such law enforcement activity, unless providing such information would impair a criminal investigation. NYC Administrative Code § 14-174 (BR 16).

§ 87(2)(g)

**Allegation (E) Abuse of Authority: Police Officer Vincent Cuccia frisked § 87(2)(b)**

**Allegation (F) Abuse of Authority: Police Officer Vincent Cuccia searched § 87(2)(b)**

**Allegation (G) Abuse of Authority: Police Officer Joel Feliz frisked § 87(2)(b)**

**Allegation (H) Abuse of Authority: Police Officer Joel Feliz searched § 87(2)(b)**

**Allegation (I) Abuse of Authority: Police Officer Hosward Veloz searched § 87(2)(b)**

§ 87(2)(b) testified that an officer, identified by the investigation as PO Cuccia, frisked § 87(2)(b) along his side and entered the pocket with § 87(2)(b)'s cell phone, which he took out. A second officer, identified via investigation as PO Feliz, frisked his front two pants pockets and waistband area. PO Feliz pulled out § 87(2)(b)'s cash and asked him how much money it was. § 87(2)(b) replied that it was 30 dollars and PO Feliz gave the money back. A third officer, identified as PO Veloz, placed his hand into § 87(2)(b)'s pants, over his underwear, and felt around his buttocks area. These frisks and searches occurred simultaneously, and nothing was recovered. § 87(2)(b) was not asked for consent to search and he did not provide consent.

PO Cuccia testified that as he and PO Veloz approached § 87(2)(b) he observed a heavy bulge in the front of § 87(2)(b)'s person, in either his sweatshirt or jacket pocket. PO Cuccia did not recall whether § 87(2)(b) made any movements toward the location of the bulge. The object weighed down § 87(2)(b)'s clothing, but PO Cuccia was unable to describe the approximate weight of the object. PO Cuccia did not recall what shape the object was, he could not estimate the size, and he did not see a specific outline. There was nothing specific about § 87(2)(b) that indicated that he might have a weapon or led PO Cuccia to fear for his safety. PO Cuccia was not sure what the object was, and he did not suspect the bulge to be anything. PO Cuccia then touched the bulge, over § 87(2)(b)'s clothing, to ensure that it was not a weapon. PO Cuccia did not recall whether he frisked § 87(2)(b) in any other location. PO Cuccia ascertained that the bulge was not a weapon but did not recall how that was determined or what the object was. He did not recall whether PO Veloz frisked § 87(2)(b). PO Cuccia did not recall whether he or PO Veloz searched § 87(2)(b). PO Cuccia did not recall whether he or PO Veloz took money or a cell phone out of § 87(2)(b)'s pocket. To his recollection, PO Cuccia did not place his hand into § 87(2)(b)'s pants and feel around his buttocks area, over his underwear. PO Cuccia did not recall whether PO Veloz did so. PO Cuccia did not ask § 87(2)(b) for consent to be frisked and he did not provide consent. PO Cuccia did not recall whether PO Feliz interacted with § 87(2)(b) or whether PO Feliz made any physical contact with § 87(2)(b).

§ 87(2)(g)

PO Veloz specified that he observed a large, heavy bulge in the center,

front pocket of § 87(2)(b)'s sweatshirt. The bulge was larger than a cell phone, though PO Veloz was unable to estimate the size. PO Veloz suspected that it may have been a firearm, based upon the fact that it caused § 87(2)(b)'s pocket to be visibly weighed down. Either PO Veloz or PO Cuccia frisked § 87(2)(b)'s sweatshirt pocket, in order to determine whether it was a firearm, for the officers' safety. PO Veloz did not recall who conducted the frisk. Neither he nor PO Cuccia frisked any other location aside from § 87(2)(b)'s sweatshirt pocket. To his recollection, no officer searched § 87(2)(b). PO Veloz did not recall whether he or any officer took money or a cell phone out of § 87(2)(b)'s pocket. He did not place his hand into § 87(2)(b)'s pants, over his underwear, and feel around his buttocks area.

PO Feliz testified that he and PO Estevez were only present for seconds, and while he was present, he solely observed § 87(2)(b) speaking with PO Cuccia and PO Veloz. PO Estevez similarly stated that she and PO Feliz were present for approximately one minute or less and did not recall what was happening when she arrived. Both officers testified that they did not frisk or search § 87(2)(b). PO Feliz did not see any officer frisk or search § 87(2)(b). PO Estevez stated that she did not recall whether any officer frisked or searched § 87(2)(b).

PO Cuccia and PO Veloz testified in their IAB GO-15 interviews that § 87(2)(b) was frisked in the location where they observed a bulge. PO Cuccia and PO Veloz each did not recall whether he or his partner frisked § 87(2)(b). PO Cuccia did not recall whether they searched § 87(2)(b)'s waistband, crotch area, or buttocks area. PO Cuccia did not recall whether an officer searched § 87(2)(b)'s pockets. PO Veloz testified that the officers did not touch § 87(2)(b)'s waistband or buttocks area.

Upon lawfully stopping an individual for committing a non-violent offense, an officer may only frisk that individual if the officer has "independent, reasonable suspicion" to believe that the individual stopped is armed and presently dangerous. United States v. Jackson, 2015 U.S. Dist. LEXIS 98980 (2015) (BR 14). Officers must be able to articulate "specific and articulable facts" that reasonably warrant such an intrusion; unparticularized suspicion or hunches are not sufficient. Terry v. Ohio, 392 U.S. 1 (1968) (BR 15). In order for an officer's observation of a bulge in a suspect's clothing to justify a frisk, the bulge's size, shape, and placement must justify the conclusion that the bulge is a weapon, as opposed to an innocuous object. Jackson, supra.

PO Cuccia testified that upon stopping § 87(2)(b) for spitting, a non-violent violation, he observed a heavy bulge in § 87(2)(b)'s clothing. PO Cuccia did not suspect the bulge to be any particular object and frisked § 87(2)(b) in order to determine whether it was a weapon. PO Cuccia also testified that there was nothing specific about § 87(2)(b) that indicated that he might have a weapon or led PO Cuccia to fear for his safety. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation (J) Abuse of Authority: Police Officer Suneiky Estevez refused to provide her name to § 87(2)(b)**

**Allegation (K) Abuse of Authority: Police Officer Suneiky Estevez refused to provide her shield number to § 87(2)(b)**

**Allegation (L) Abuse of Authority: Police Officer Joel Feliz refused to provide his name to § 87(2)(b)**

**Allegation (M) Abuse of Authority: Police Officer Joel Feliz refused to provide his shield number to § 87(2)(b)**

§ 87(2)(b) testified that as the officers walked away, he asked why he was stopped and asked for their names and shield numbers. This request for identifying information was intended for all the officers, but at that point, solely PO Estevez and PO Feliz were still in front of § 87(2)(b) and close enough to hear him. Additionally, § 87(2)(b) primarily wanted PO Feliz's name and shield number. The officers ignored § 87(2)(b) and did not provide him with any identifying information.

PO Cuccia, PO Veloz, and PO Estevez did not recall whether § 87(2)(b) asked for their names or shield numbers. PO Cuccia, PO Veloz, and PO Estevez did not recall whether § 87(2)(b) asked for any officer's name or shield number. PO Cuccia and PO Estevez further testified that they did not refuse to provide their identifying information to § 87(2)(b) as they would have provided that information upon request.

PO Feliz testified that when he initially approached § 87(2)(b) he stated his name aloud. § 87(2)(b) did not request any identifying information from him or any officer. PO Feliz did not refuse to provide his name or shield number to § 87(2)(b) nor did any other officer.

§ 87(2)(g)

**Allegation (N) Force: Police Officer Joel Feliz used physical force against § 87(2)(b)**

**Allegation (O) Abuse of Authority: Police Officer Joel Feliz interfered with § 87(2)(b)'s use of a recording device.**

§ 87(2)(b) testified that as the officers walked away, he took out his phone to take photographs of the officers, their shields, and the police vehicles. § 87(2)(b) walked toward the officers and PO Feliz pushed § 87(2)(b) with one hand, in the middle of his upper chest. § 87(2)(b) stepped back but did not fall. PO Feliz told § 87(2)(b) not to take photographs and stated that he cannot get close to the officers.

PO Feliz did not recall whether § 87(2)(b) took out his phone or tried to take any photographs during the interaction. Neither he nor any officer told § 87(2)(b) that he could not take photographs or record. PO Feliz did not recall how close he was to § 87(2)(b) during the interaction. PO Feliz did not push § 87(2)(b) nor did he observe any other officer do so.

PO Cuccia's, PO Veloz's, and PO Estevez's testimonies were consistent with PO Feliz's. They all denied or did not recall whether PO Feliz or any officer pushed § 87(2)(b) or told § 87(2)(b)

that he could not record. PO Cuccia and PO Veloz specified that if § 87(2)(b) wanted to record during the interaction, he would have been able to do so.

§ 87(2)(g)

**Allegation (P) Abuse of Authority: Police Officer Vincent Cuccia failed to provide § 87(2)(b) with a business card.**

**Allegation (Q) Abuse of Authority: Police Officer Hosward Veloz failed to provide § 87(2)(b) with a business card.**

**Allegation (R) Abuse of Authority: Police Officer Joel Feliz failed to provide § 87(2)(b) with a business card.**

§ 87(2)(b) testified that he was not provided with a business card by any officer, which is undisputed.

PO Cuccia testified that he did not provide § 87(2)(b) with a business card because he did not think it was not an interaction in which he was required to do so. PO Veloz testified that it was an interaction in which a business card needed to be provided to § 87(2)(b) but he did not have any business cards with him because of unspecified laundry issues. PO Veloz did not verbally provide his name or shield number to § 87(2)(b). PO Feliz did not provide with § 87(2)(b) with a business card because he was not required to, as he had solely walked up to § 87(2)(b).

Officers shall offer a business card to such person at the conclusion of a law enforcement activity that does not result in an arrest or summons. Such law enforcement activities include frisks and searches of person, noncustodial questioning of individuals suspected of criminal activity, and pedestrian stops where an officer has an individualized, reasonable suspicion that the person stopped has committed, is committing, or is about to commit a crime and where a reasonable person would not feel free to end the encounter. When an officer does not have an adequate number of business card on his or her person, the officer must verbally provide such information. NYC Administrative Code § 14-174 (BR 16).

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)



§ 87(4-b) § 87(2)(g) [Redacted]

[Redacted]

§ 87(4-b) § 87(2)(g) [Redacted]

[Redacted]

[Redacted]

§ 87(4-b) § 87(2)(g) [Redacted]

[Redacted]

[Redacted]

§ 87(4-b) § 87(2)(g) [Redacted]

§ 87(4-b) § 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- § 87(2)(b) has been a party to one CCRB complaint and has been named as a victim in five allegations (BR 21).
  - § 87(2)(b)
- PO Cuccia has been a member of service for four years has been a subject in one CCRB complaint and one allegation, of which none were substantiated. § 87(2)(g)
- PO Veloz has been a member of service for seven years and this is the first complaint to which he has been a subject.
- PO Feliz has been a member of service for four years and has been a subject in three CCRB complaints and six allegations, of which none were substantiated. § 87(2)(g)
- PO Estevez has been a member of service for one year and this is the first complaint to which she has been a subject.

#### **Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.
- As of November 17, 2020, the NYC Comptroller's Office has no record of a Notice of Claim being filed in regard to this complaint (BR 22).

• [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 6

Investigator: \_\_\_\_\_  
Signature

Inv. Laura Strauss  
Print Title & Name

04/29/2021  
Date

**CCRB Case # 201908813**

Squad Leader: Jessica Peña IM Jessica Peña 4/30/2021  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date